



Proposed Regulation Agency Background Document

Agency name	Virginia Department of Transportation (Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC 30 -73
Regulation title	Access Management Regulations: Minor Arterials, Collectors, and Local Streets
Action title	Promulgation of APA-Subject Regulation and Related Standards to Satisfy Legislative Mandate
Date this document prepared	July 3, 2008 (Revised September 24, 2008)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

Access management is the programmatic control of the location, spacing, and design of entrances, median openings, intersections, traffic signals, and interchanges on highways according to the highway's functional classification. Highways are classified as a principal arterial, minor arterial, collector, or local based on their intended function. The proposed Access Management Regulations: Minor Arterials, Collectors, and Local Streets, along with related access management design standards for entrances and intersections, will be used to manage access to state highways with these functional classifications in order to improve their traffic carrying capacity and reduce traffic crashes. (Access management regulations for principal arterials are set forth in Access Management Regulations: Principal Arterials (24 VAC 30-72).)

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Chapters 863 and 928 of the 2007 Acts of Assembly (HB 2228 and SB 1312, respectively) amended §§ 33.1-13, 33.1-198 and 33.1-199 of the *Code of Virginia*, and added § 33.1-198.1 to the *Code of Virginia*. The legislation requires the Commonwealth Transportation Commissioner (Commissioner) to develop comprehensive highway access management regulations and standards.

In response to this directive, regulations ("Access Management Regulations (12/07)") were drafted, along with related access management design standards for entrances and intersections. The regulations and design standards were to be used to manage the location, number, and spacing and design of entrances and intersections, including median openings, turn lanes, traffic signals, and interchanges on the systems of state highways.

Although initial promulgation of the regulations was exempt from the Administrative Process Act (APA) (§ 2.2-4000 et seq. of the *Code of Virginia*), the legislation directed the Commissioner to solicit and consider public comment in their development. The Commissioner was further directed by the legislation to publish the regulations no later than December 31, 2007, to be effective July 1, 2008.

These new access management regulations and design standards were to replace and supersede the Minimum Standards of Entrances to State Highways (24 VAC 30-71) and Part IV, Entrance Permits, of the Land Use Permit Manual (24 VAC 30-150).

The mandate to develop and promulgate access management regulations is new, but the regulation of entrances is not. The Highway Commission, predecessor to the Commonwealth Transportation Board, originally established minimum standards for entrances in 1946. Part IV of the Land Use Permit Manual (24 VAC 30-150), along with the Minimum Standards of Entrances to State Highways (24 VAC 30-71), served as the basis for the Access Management Regulations (12/07) and the access management design standards for entrances and intersections.

During the 2008 General Assembly session, SB 370 and HB 1572 were enacted to provide that the Access Management Regulations (12/07) be promulgated in phases. The first phase (initial promulgation of regulations applicable to highways with a functional classification as a principal arterial) was exempt from the APA, and the regulations went into effect July 1, 2008. Subsequent phases (promulgation of regulations applicable to highways classified as a minor arterials, collectors, and local streets) are subject to the APA and will go into effect October 1, 2009. The legislation provided that the general notice concerning proposed Access Management Regulations published in *The Virginia Register* on October 15, 2007, shall be considered a valid Notice of Intended Regulatory Action pursuant to the APA for promulgation of this second phase.

To accommodate the mandate of Chapters 454 (HB 1572) and 274 (SB 370) of the 2008 Acts of Assembly for promulgation of the first phase of regulations, VDOT revised 24 VAC 30-72-30 of the Access Management Regulations (12/07) and the related access management design standards for entrances and intersections to remove language related to minor arterials, collectors, and local streets. In response to these directives, the Access Management Regulations: Principal Arterials and the related access management design standards for entrances and intersections for principal arterials only apply to highways with a functional classification of principal arterial. The Access Management Regulations: Principal Arterials and the related access management design standards for entrances and intersections for principal arterials went into effect July 1, 2008.

The access management design standards for principal arterials are included as a new Appendix F in the Road Design Manual, which are incorporated by reference in the final Access Management Regulations: Principal Arterials. Access management design standards for minor arterials, collectors, and local streets are included as new Appendix G in the Road Design Manual, which are incorporated by reference in the proposed Access Management Regulations: Minor Arterials, Collectors, and Local Streets. They are available at <http://www.vdot.virginia.gov/accessmgt/>.

To satisfy the second phase of the promulgation of access management regulations in accordance with Chapters 454 and 274 of the 2008 Acts of Assembly, VDOT is publishing the proposed Access Management Regulations: Minor Arterials, Collectors, and Local Streets, which include the related access management design standards to be applicable to highways with a functional classification of minor arterial, collector, and local. These design standards are incorporated by a reference in the regulations to the Road Design Manual, an approach which was used previously when the Access Management Regulations: Principal Arterials were published. These proposed regulations are being processed in accordance with the APA and are mandated to go into effect October 1, 2009, after their approval by the Commissioner. The Commonwealth Transportation Board will need to repeal the Minimum Standards of Entrances to State Highways (24 VAC 30-71) prior to the October 1, 2009, effective date. Minor revisions will also be necessary to the General Rules and Regulations of the Commonwealth Transportation Board (24 VAC 30-20), since these regulations refer to the Minimum Standards and regulation of entrances.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

Section 33.1-198.1 of the *Code of Virginia*, effective July 1, 2008, directs the Commissioner to develop comprehensive highway access management regulations and standards with the purpose to preserve and improve the efficient operation of the systems of state highways through the regulation of access to state highways. The final Access Management Regulations: Principal Arterials, proposed Access Management Regulations: Minor Arterials, Collectors, and Local Streets, and related access management design standards for entrances and intersections were prepared in response to this legislative directive.

The legislation declares it to be in the public interest that access management regulations and design standards for entrances and intersections be developed and implemented to enhance the operation and safety of the systems of state highways in order to protect the public health, safety, and general welfare while ensuring that private property is entitled to reasonable access to the systems of state highways. The stated goals for the access management regulations and design standards are:

1. To reduce traffic congestion and impacts to the level of service of highways, leading to reduced fuel consumption and air pollution;
2. To enhance public safety by decreasing traffic crash rates;
3. To support economic development in the Commonwealth by promoting the efficient movement of people and goods;
4. To reduce the need for new highways and road widening by improving the performance of the existing systems of state highways; and
5. To preserve public investment in new highways by maximizing their performance.

Note on Functional Classification

Functional classification means the federal system of classifying groups of highways according to the character of service they are intended to provide and classifications made by the VDOT Commissioner based on the operational characteristics of a highway. Each highway is assigned a functional classification based on the highway's intended purpose for through traffic movement vs. providing access

to property. The functional classification system groups highways into three basic categories identified as (1) arterial, with two subclasses of “principal” and “minor,” with the primary function to provide through-movement of traffic; (2) collector, with the function of supplying a combination of through-movement and access to property; and (3) local, with the primary function of providing access to property.

This regulation applies to minor arterials, collectors, and local streets. Minor arterials interconnect with and augment the principal arterial system which serves traffic of statewide and regional importance. Minor arterials distribute traffic to smaller geographic areas, providing service between and within communities.

Collectors provide land access service and traffic circulation by distributing trips throughout the community to the ultimate destination. Conversely, collectors also collect traffic from local streets in residential neighborhoods and help channel it into the arterial system.

Local streets comprise all facilities that are not collectors or arterials. Local streets serve primarily to provide direct access to abutting land and help disperse traffic.

Maps of the minor arterials, collectors, and local streets by locality will be available at <http://www.vdot.virginia.gov/> prior to the effective date of the regulation.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)

The intent of the final Access Management Regulations: Principal Arterials, proposed Access Management Regulations: Minor Arterials, Collectors, and Local Streets, and the related access management design standards for entrances and intersections is to enhance and improve the operation and safety of the systems of state highways and the goals are: (i) to reduce traffic congestion and impacts to the level of service of highways, leading to reduced fuel consumption and air pollution; (ii) to enhance public safety by decreasing traffic crash rates; (iii) to support economic development in the Commonwealth by promoting the efficient movement of people and goods; (iv) to reduce the need for new highways and road widening by improving the performance of the existing systems of state highways; and (v) to preserve public investment in new highways by maximizing their performance.

Generally, this regulation combines content from the existing Minimum Standards of Entrances to State Highways and Part IV of the Land Use Permit Manual. A Technical Advisory Committee composed of personnel from VDOT’s engineering and planning divisions and the Virginia Transportation Research Council, plus representatives from the VDOT districts and residencies, reviewed access management regulations and standards from many different sources to compile the new regulations and related design standards mandated by the legislature. These sources included access management regulations and standards from other states (such as New Mexico, Maryland, North Carolina, Florida, and Michigan), as well as information from the Transportation Research Board (TRB), the Federal Highway Administration (FHWA), the Institute of Transportation Engineers (ITE), and the American Association of State Highway and Transportation Officials (AASHTO).

In addition, a Policy Committee, comprised of representatives from the Home Builders Association of Virginia, Virginia Association of Commercial Real Estate, Virginia Association of Counties, the Virginia Section of the Institute of Transportation Engineers, and the Piedmont Environmental Council, as well as from VDOT management and the Office of the Secretary of Transportation, evaluated and refined the

Access Management Regulations and the access management design standards for all VDOT highways (principal and minor arterials, collectors, and local streets) with input from their organizations.

The Access Management Regulations: Minor Arterials, Collectors, and Local Streets contain definitions of pertinent words and terms, information on access management principles, administration of the permit process (how to obtain a permit, making appeals and requesting exceptions), general provisions concerning entrances, private and commercial entrance requirements, entrance design rules, cost responsibilities, commercial entrance access management requirements, coordination with local governments, tenure of entrances, and documents incorporated by reference. The access management design standards for entrances and intersections that are included in the Road Design Manual address the following topics: definitions of pertinent words and terms; access management concepts; functional classifications of state highways; design principles and spacing standards for intersections, entrances, traffic signals and median openings; sight distance standards; turning lane criteria; design principles concerning private and commercial entrances.

Pursuant to Chapters 454 and 274 of the 2008 Acts of Assembly, the Access Management Regulations: Principal Arterials apply to highways with a functional classification of principal arterial, and the Access Management Regulations: Minor Arterials, Collectors, and Local Streets apply to highways with a functional classification of minor arterial, collector, and local.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The implementation of this regulation will be advantageous to the residents of Virginia. Access management regulations and standards can help reduce traffic congestion and its impact on a highway's level of service. These regulations can reduce traffic crash rates, resulting in increased public safety, fewer injuries and fatalities, and less property loss. A California study found that improved access control reduced crash rates by 42% on rural highways, and a Minnesota study indicated a direct and statistically significant correlation between crash rates and the number of driveway entrances. This suggests that implementation of the regulations and standards can reduce the personal and fiscal costs of crashes to Virginians.

Access management regulations and standards also promote more efficient movement of goods and people which will support state, regional and local economic development efforts. For businesses, well access-managed corridors can operate at higher speeds, increasing the market area of a business and providing better customer exposure. The reduced delay associated with well access-managed roads can result in lower transportation costs and shorter delivery times for businesses. In addition, the Urban Land Institute's Shopping Center Development Handbook states that "poorly designed entrances and exits not only present a traffic hazard, but also cause congestion that can create a negative image of the center."

At a micro level, sharing entrances can lead to lower costs per entrance applicant, and vehicular and pedestrian connections between properties can increase the customer base for neighboring businesses.

Reduced traffic congestion due to access management can lead to reduced fuel consumption and therefore reduced costs as well as lower air pollution from vehicles. Effective access management

ensures that pedestrians and bicyclists face fewer and less frequent motor vehicle highway entrances, thereby making it safer to walk and cycle along the roadway.

An advantage to VDOT and, by extension, the citizens of the Commonwealth will come about as a result of the improved performance of the existing road infrastructure, reducing the need for new or wider highways and preserving the public's investment in existing and new highways.

There will be some disadvantages related to the implementation of the regulation. Industry and the public will need time to adjust and familiarize themselves with the new regulation and standards, which may in some instances result in limitations on the number of new entrances and the allowable turning movements at new entrances. Developers will need to investigate the possibility of the joint use of desired entrances with adjoining property owners in accordance with the regulations and § 33.1-198 of the *Code of Virginia*. Complete implementation of the new regulation will require coordination among developers, state and local governments, and the public. VDOT will provide outreach and training for all interested parties to facilitate a smooth implementation of this regulation.

The time required for industry and the public to become familiar with the new regulations and standards, and the costs to VDOT and localities to conduct outreach and training, will be reduced because industry, the public, and localities should already be familiar with Access Management Regulations: Principal Arterials, which went into effect July 1, 2008, and because of the additional opportunities for involvement in development of the regulation provided by the public comment period.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

A requirement dealing with access near interchanges is cited on pages 2E-42 and 43 of VDOT's Road Design Manual, and in the American Association of State Highway and Transportation Officials' (AASHTO's) "A Policy on Design Standards Interstate System, 2005". The AASHTO requirement serves as VDOT's primary reference, as it is a Federal Highway Administration (FHWA) requirement as well. The requirement states that entrances shall not be installed within a certain distance of Interstate off and on ramps--100 feet in urban and 300 feet in rural areas. However, this AASHTO rule was originally adopted in 1966 and has not been revised even though multiple national transportation research studies have recommended greater distances to prevent traffic backups onto ramps and to reduce crash potential and congestion in the vicinity of the interchange. The access management standards referenced in the regulations apply the ramp/entrance separation distances recommended in the national studies to fully meet the goals of the authorizing legislation.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

This regulation will apply to all highways classified as minor arterials, collectors, and local streets within the Commonwealth over which the Commonwealth Transportation Board exercises jurisdiction and

control; accordingly, the impact should be similar across all localities in which there are state controlled highways.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

To facilitate outreach, a web page (<http://www.virginiadot.org/accessmgt>) was added to the VDOT website. This web page provides information on the background and purpose of the access management legislation, access management concepts and policies, benefits that accrue from managing access to state highways, a description of key proposed regulatory provisions, the public input process, and opportunities to provide input. The proposed Access Management Regulations: Minor Arterials, Collectors, and Local Streets and related access management design standards for highways with these functional classifications will be posted on the web page and published in the Virginia Register.

Pursuant to Chapters 454 and 274 of the 2008 Acts of Assembly, the publication of the General Notice regarding Access Management Regulations in the October 15, 2007, Virginia Register served as a valid NOIRA for purposes of meeting the requirements of the APA for promulgation of access management regulations for minor arterials, collectors, and local streets.

VDOT will provide multiple opportunities for people throughout the Commonwealth to participate in the public input process. Informational workshops and public hearings are planned in different regions of the Commonwealth after the proposed regulations are made available to the public. Statewide organizations that may be interested in the proposed regulations and standards will be contacted about the opportunities for public input. Notice of the public hearings will appear in newspapers across the Commonwealth, on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov), in *The Virginia Register*, and on the access management web page on the VDOT website (<http://www.virginiadot.org/accessmgt>).

Once the public comment period closes, personnel from VDOT’s access management, policy, engineering, and planning divisions and the Virginia Transportation Research Council, plus representatives from the VDOT districts, residencies, and regional operations will evaluate the comments and use the comments to revise the draft regulations and standards.

The final Access Management Regulations: Minor Arterials, Collectors, and Local Streets and related access management design standards for entrances and intersections will be forwarded to the Commissioner for review and approval with an effective date of October 1, 2009, in accordance with the statutory deadline. The Commonwealth Transportation Board will repeal the Minimum Standards of Entrances to State Highways (24 VAC 30-71) effective October 1, 2009. Also, the Access Management Regulations: Principal Arterials (24 VAC 30-72) and Part IV Entrance Permits of the current Land Use Permit Manual (24 VAC 30-150) may need to be adjusted to assure consistency with the final Access Management Regulations: Minor Arterials, Collectors, and Local Streets. The regulations will proceed through the remaining steps in the APA review process and will become effective on October 1, 2009.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and	(a) In general, VDOT’s funds come from a mixture
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<p>enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>of state and federal revenue sources (fuel and hauling permit fees, tolls, road taxes, special-purpose federal funds, etc.) and funds designated by the General Assembly. These funds are spent on administrative and support activities, highway system maintenance, and specialized activities undertaken by other state agencies (Departments of State Police, Rail and Public Transportation, Motor Vehicles, etc.). Money also goes to highways and other transportation modes, and specialized transportation programs and matching funds.</p> <p>VDOT spends approximately \$14 million annually administering land use permits (approximately 200 employees statewide). For the FY 2007, approximately 15,000 permits were processed, yielding approximately \$500,000 in fees, less adjustments. The Access Management Regulations: Minor Arterials, Collectors, and Local Streets, along with the access management standards for entrances and intersections, replace the existing Minimum Standards of Entrances to State Highways (24 VAC 30-71) and Part IV, Entrance Permits, of the Land Use Permit Manual (24 VAC 30-150). Since this regulation will use the same forms, requirements, and personnel as that of other asset management activities related to land use permit review, these costs can be absorbed by current operations. No new positions will be required to implement the proposed regulation. Because the regulations seek to reduce the number of entrances to state highways, fewer entrance permit applications may result from this action.</p> <p>(b) One-time vs. ongoing expenditures: VDOT will incur expenses associated with holding at least four public hearings concerning content of the new regulations and for printing and distributing the new regulations, as well as administering training. The cost for one public hearing depends on many variables but has historically ranged from \$1,500 - \$4,000. Four public hearings could cost up to \$16,000. Based on estimates developed for recent regulatory publications, costs for printing and distribution are estimated at \$10,000. Use of VDOT and other public meeting facilities for training workshops will result in minimal facility costs.</p>
<p>Projected cost of the regulation on localities</p>	<p>There should be no direct costs to localities since local governments do not regulate (approve) access to state controlled highways. VDOT is statutorily responsible for approving permits for entrances and traffic signals. There will be minimal expense for localities to familiarize employees with the provisions of the Access Management</p>

	<p>Regulations: Minor Arterials, Collectors, and Local Streets, including the access management design standards for entrances and intersections. For example, some localities with transportation planning departments will want to become familiar with the regulations and standards. Local government personnel can attend VDOT-sponsored workshops and use the extensive informational resources on the VDOT web site. Also, localities will already be familiar with the Access Management Regulations: Principal Arterials, which went into effect July 1, 2008.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>This regulation will affect individuals and companies who apply for entrance permits and construct entrances connecting their businesses, residences, or subdivisions to the highway.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>VDOT issued about 5,000 entrance permits (private and commercial) in FY 2007, generally for access to new construction. So up to 5,000 parties could be affected each year. However, because this regulation is more likely to affect new businesses rather than existing ones, the number of small businesses affected cannot be reliably estimated. Also, many businesses, regardless of whether they are new or existing, obtain more than one permit, so the number of affected entities would likely be less than the total number of permits issued. In any event, all businesses, including small businesses, requesting an entrance permit would be affected. For more detail on small business impact, see “Regulatory Flexibility Analysis” below.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>The proposed regulations and standards do not increase entrance permit costs. Permit fees are set by the Land Use Permit Manual (24 VAC 30-150), which is being replaced through a separate action by a new regulation, Land Use Permit Regulations (24 VAC 30-151). Potential costs of compliance include:</p> <ul style="list-style-type: none"> • Costs of a traffic engineering investigation report, if an exception to sight distance is sought. <i>Exact costs are dependent on the nature of the project.</i> • Costs of negotiating and documenting a shared entrance agreement. <i>Exact costs are dependent on the nature of the project and the willingness of the parties to negotiate.</i> • Costs of demonstrating that a proposed entrance will not compromise the safety, use, operation, or maintenance of the abutting highway. (This requirement may be satisfied with a rezoning Traffic Impact Statement or a site plan/subdivision plat Supplemental Traffic Analysis submitted for a proposed development of a parcel in accordance with the Traffic Impact Analysis Regulations (see

	<p>24 VAC 30-155.) <i>Exact costs are dependent on the nature of the project, but if a traffic impact statement pursuant to 24 VAC 30-155 is used, additional costs are zero.</i></p> <ul style="list-style-type: none"> • Costs of mitigation measures, if required. <i>Exact costs are dependent on the nature of the project.</i> • Costs of installation of private entrance (to individual homes) drainage pipes. VDOT currently will install such pipes at the request of a property owner (not for a developer). <i>Approximately \$750 to \$1,000 per private entrance.</i> <p>None of these costs is a necessary cost of compliance. Whether or not a cost is imposed on a regulated entity depends on the circumstances and nature of the entrance proposed. In the case of the traffic impact statement, this cost may have already been paid by the regulated entity and is not an additional cost imposed by the regulation. With the exception of the costs of installation of private entrance drainage pipes, this regulation imposes no new costs on the regulated community beyond those costs imposed by existing regulations.</p> <p>These costs may be mitigated by potential increased income for businesses and residential developers from implementation of the regulation:</p> <ul style="list-style-type: none"> • Access management regulations and standards promote more efficient movement of goods and people which will support state, regional and local economic development efforts. • For businesses and residential developers, well-managed corridors can operate at higher speeds, increasing the market area of a business or potential residential development and providing better customer exposure. • The reduced delay associated with well access-managed roads can result in lower transportation costs and shorter delivery times for the trucking industry. Faster delivery of goods benefits business inventory control.
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Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The promulgation of the Access Management Regulations: Minor Arterials, Collectors, and Local Streets was mandated by the General Assembly. Therefore, there is no viable alternative to promulgation of this regulation.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The Access Management Regulations: Minor Arterials, Collectors, and Local Streets have been written to prevent any disproportionate adverse impacts on small businesses, since their purpose is to preserve and improve the efficient operations of the state systems of highways, which benefits businesses by reducing congestion and delay, increasing the market area of a business and providing better customer exposure. Alternate regulatory methods considered include:

- 1) *Establishment of less stringent compliance or reporting requirements* – Compliance requirements are necessary to promote public safety and efficient movement of traffic on the highways. However, the regulations do ensure, in accordance with statute, that private property is entitled to reasonable access to the systems of state highways while balancing public safety and benefits from the regulations and standards. The Access Management Regulations for Minor Arterial, Collector, and Local Highways do include provisions allowing entrance permit applicants to appeal entrance permit requirements and conditions for entrance approval, when justified due to special circumstances. The regulatory procedure imposes no appeal fee on the applicant and the procedure includes a deadline (60 days) for VDOT to make a decision on an appeal. The District Administrator or designee is provided with considerable discretionary authority regarding design requirements.
- 2) *Establishment of less stringent schedules or deadlines for compliance or reporting requirements* – There are no schedules or deadlines for compliance or reporting. The appeal process contains deadlines for VDOT's response to an appeal. The current entrance permit appeal process contains no such deadlines. Adding such deadlines will assure that entrance permit applicants, including small businesses, receive timely responses to their concerns.
- 3) *Consolidation or simplification of compliance or reporting requirements* – Compliance requirements are necessary to promote public safety and efficient movement of traffic on the highways. Attempts were made to clarify the requirements wherever possible without compromising public safety and benefit. For example, the regulations allow a permit applicant to use the rezoning traffic impact statement or the site plan/subdivision plat supplemental traffic analysis submitted for the development in accordance with the Traffic Impact Analysis Regulations (24 VAC 30-155) when documenting the impact of the proposed entrance and its related traffic on the operation of the state highway system, provided that it adequately documents the effect of the proposed entrance and its related traffic on the operation of the highway to be accessed.
- 4) *Establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation* – Design standards are required pursuant to § 33.1-198.1; performance standards cannot be substituted. The regulations are not retroactive in

their application to entrances. The proposed regulations will grandfather commercial entrance locations identified on rezoning proffered plans of development, site plans, and subdivision plats that are approved prior to the October 1, 2009, effective date of the regulations. Therefore, applicants meeting this deadline would not be required to alter the location of their previously approved entrances.

- 5) *Exemption of small businesses from all or any part of the requirements contained in the proposed regulation* – Because the requirements are designed to ensure public safety, creating exemptions to the requirements would not be in the public interest. As discussed above, however, applicants can appeal entrance design decisions, when justified by special circumstances.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Following publication of a General Notice in *The Virginia Register* on October 15, 2007, a public hearing for the APA-exempt regulation was conducted on October 22, 2007 in Richmond. Both oral and written comments were accepted at that time. Notice of the public hearing was published twice in thirteen newspapers across the Commonwealth and distributed to fifty media outlets, and posted on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov), in the Calendar of Events section of the Virginia Register of Regulations, and on the access management web page on the VDOT website (<http://www.virginiadot.org/accessmgt>). The proposed regulations were posted on this website for public review and a link to an email form was placed on the website to provide another opportunity for the public to use to submit their comments. Over 250 comments were received from local governments; business, transportation engineering and environmental organizations; and the general public.

Under the provisions of Chapters 274 and 454 of the 2008 Acts of Assembly, publication of the General Notice is considered to be the NOIRA for the Access Management Regulations: Minor Arterials, Collectors, and Local Streets. Since the original regulation dealt with all types of roads, the comments made at that time are still relevant to minor arterials, collectors, and local streets. The revisions that were made to the Access Management Regulations: Principal Arterials based on the many comments that were received have been incorporated into this proposed regulation. Comments and VDOT's response may be reviewed at:

<http://www.virginiadot.org/projects/accessmgt/ResponseAccessMgtPublicComments11.20.07.pdf>

VDOT used a committee-based approach to developing the regulation and soliciting and evaluating comments. A VDOT technical committee representing a broad range of disciplines from Central Office divisions, the regions, districts, residencies, and the Virginia Transportation Research Council prepared the proposed regulations and standards. The technical committee reviewed access management regulations and standards from many different sources (such as New Mexico, Maryland, North Carolina, Florida, and Michigan), as well as information from the Transportation Research Board (TRB), the Federal Highway Administration (FHWA), the Institute of Transportation Engineers (ITE), and the American Association of State Highway and Transportation Officials (AASHTO).

A policy advisory committee was created composed of external stakeholders, including representatives from the Home Builders Association of Virginia, Virginia Association for Commercial Real Estate, Virginia Association of Counties, the Virginia Section of the Institute of Transportation Engineers, and the Piedmont Environmental Council, as well as internal stakeholders from VDOT and the Office of the Secretary of Transportation. This committee reviewed and refined the proposed regulations and standards, helped evaluate the public comments, and submitted their recommendations to the Commissioner.

The Access Management Regulations (12/07) published pursuant to Chapters 863 and 928 of the 2007 Acts of Assembly were intended to apply to all functional classifications of highways. The regulation was amended, pursuant to Chapters 454 and 274 of the 2008 Acts of Assembly, to apply only to principal arterials, and published in final form as Access Management Regulations: Principal Arterials. However, because the 12/07 Access Management Regulations contemplate other functional classifications, the same content, modified to state applicability to minor arterial, collector, and local streets, is used as the proposed version of this regulation.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The Access Management Regulations: Minor Arterials, Collectors, and Local Streets will have a positive impact on the institution of the family. This regulation will help reduce traffic congestion, air pollution, vehicular crash rates, promote efficient movements of goods and people, preserve public investment in existing roads and reduce the need for new highways and widening of existing highways. These impacts will help provide families with a more efficient and safer transportation network.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

This is a new regulation. However, it does carry over and consolidate existing regulations in the Minimum Standards of Entrances (24 VAC 30-71) and the entrance regulations in the Land Use Permit Manual (24 VAC 30-150). Items appearing in the Minimum Standards such as entrance illustrations and sight distance standards will be relocated to the Road Design Manual and incorporated by reference. As a result, the Minimum Standards of Entrances will be repealed by the Commonwealth Transportation Board upon the effective date of the Access Management Regulations: Minor Arterials, Collectors, and Local Streets. A general narrative of changes is provided below.

Section 10 includes definitions for terms relevant to the regulations mentioned above. Some are new, ("shared entrance," "functional classification,"), some have been deleted ("clear zone," "private subdivision road or street"), and some have been revised ("private entrance," "operating speed").

Section 20 includes information on authority to regulate entrances to highways. Included is information on the various statutes and regulations concerning entrances, along with the role of the Commonwealth Transportation Board. Some of this information was previously supplied in the Minimum Standards (24 VAC 30-71) or the Land Use Permit Manual (24 VAC 30-150), but additional information has been supplied to update the regulation. This section also establishes that the location of entrances that are approved prior to the effective date of the regulations remain valid. This section also discusses the

authority of the district administrators or their designees to issue private entrance permits and commercial entrance permits.

Section 30 includes information on the application of the regulation to minor arterials, collectors, and local streets, and the availability of maps to facilitate identification of highways by their functional classification. This information does not appear in the Minimum Standards (24 VAC 30-71) or the Land Use Permit Manual (24 VAC 30-150).

Section 40 includes administrative procedures and rules for obtaining commercial and private entrance permits. This information was previously supplied in existing regulations, but has been revised consistent with the authority granted to district administrator's designees in 24 VAC 30-73-20.

Section 50 includes an appeal and exception procedure. This information was supplied in existing regulations, but has been revised to include a deadline for VDOT's written response to the request.

Section 60 includes general provisions governing commercial and private entrances. This information is supplied in existing regulations, but has been revised consistent with statutory authority and requirements concerning access management.

Section 70 includes details on commercial entrance design. Illustrations and other design information was supplied in the Minimum Standards (24 VAC 30-71), but the content has been revised to provide more detailed instructions for new items such as bicycle/pedestrian features and traffic impact analyses.

Section 80 includes details on minimum sight distance for commercial entrances. Sight distance tables and other design information were supplied in the Minimum Standards (24 VAC 30-71), but will now be located in the Road Design Manual. Sight distance standards have not been changed.

Section 90 includes details on private entrances. Regulations on private entrances were included in the Land Use Permit Manual (24 VAC 30-150), but the content has been revised. Under current provisions of the Land Use Permit Manual, if the property owner purchased the drainage pipe for the entrance, VDOT maintenance forces would install the pipe at no cost. This practice takes maintenance forces away from necessary roadwork and drains funds from the construction budget for each county's secondary roads. The proposed replacement regulation for the LUPM, 24 VAC 30-151, reviewed and approved by the Department of Planning and Budget, the Secretary of Transportation, and the Governor, requires the property owner to arrange installation of the entrance. This change is not anticipated to cause any inconvenience, since property owners will already need to engage the services of a contractor to perform grading and other work associated with the pipe installation, and this part of the job can be performed with the other work.

Section 100 includes information on requirements for coordination with local governments. This subject was not explicitly addressed in existing regulations.

Section 110 includes information on tenure of commercial entrances, such as criteria under which VDOT may the reconstruction, upgrading, or relocation of a commercial entrance due to unsafe condition, change in use, or its being unserviceable. This information was supplied in the Minimum Standards (24 VAC 30-71), but the content has been revised. For example, a graphic depiction of maintenance responsibilities of VDOT and owners of private and commercial entrances has been transferred from the Minimum Standards (24 VAC 30-71) to the Road Design Manual and more guidance is provided on criteria to be used to determine the condition of the entrance or the change in use of the entrance due to an increase in the volume or type of traffic using the entrance.

Section 120 includes information on commercial entrance access management. This is a new provision discussing access management standards incorporated by reference in Appendix F of the Road Design Manual, along with access management requirements, such as spacing of entrances, vehicular and pedestrian circulation among properties, and traffic signal spacing.

Section 130 includes information on drainage requirements. This information was supplied in the Minimum Standards (24 VAC 30-71).

Section 140 includes information on drive-in theater requirements. This information was supplied in the Minimum Standards (24 VAC 30-71) and is required by § 33.1-12(15).

Section 150 includes information on temporary entrances (construction/logging entrances). This information was supplied in the Land Use Permit Manual (24 VAC 30-150), but has been revised to be consistent with proposed changes to this regulation.

Section 160 includes information on access to public waters. This information was supplied in the Land Use Permit Manual (24 VAC 30-150), but has been revised to eliminate unnecessary procedural information concerning permit applications.

Section 170 lists documents incorporated by reference. This information was supplied in the Minimum Standards (24 VAC 30-71), but the content has been revised to update technical material.